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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,009	05/23/2001	Mark Bernard Hettish	2001 P 09462 US	1858

7590 07/14/2004

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

AL AUBAIDI, RASHA S

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,009

Applicant(s)

HETTISH, MARK BERNARD

Examiner

Rasha S AL-Aubaidi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-8, 10-20 and 22-24 is/are rejected.
7) ☒ Claim(s) 9 and 21 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Allowable Subject Matter

2. Claims 9-10 and 21-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. For dependent claims 9-10 and 21-22, the claimed heartbeat as specifically recited in the claims is neither taught nor made fairly obvious by the prior art of record. For example, the use of control interface that includes a heartbeat message manager that generates an automatic reply is not taught or made obvious by the prior art of record.

Claim Rejections - 35 USC § 103

3. Claims 1-8, 11-20, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, III et al (US PAT # 4,972,453) in view of the admitted prior art.

Regarding claim 1, Daniel teaches a PBX switch (reads on 114 and 105 in Fig. 1), a computing platform (this may read on computer 122, see Fig.1, col.3, lines 19-27) coupled to the PBX switch (114 and 105 in Fig. 1); and component based interface objects (this may read on the expert system that invokes testing

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procedure, see abstract) running on said computing platform said component based interface objects defining properties, methods, and events, said properties, methods and events being mapped to control substantially every event and service of said PBX switch, wherein said computer supported telephony application controls substantially every event and service of said PBX switch via said component based interface objects.

Daniel does not specifically teach the use of CSTA protocols. However, this feature is old and well known as admitted by applicant specification page 3, lines 1-3.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the old and well-known CSTA protocol in Daniel because using an old and available protocol such as the CSTA protocol does not rise to the level of patentability. The use of an old and existing protocol is convenient and may also be economical.

Claim 13 is rejected for the same reasons as discussed above with respect to Claim 1.

Claims 2 and 14 recite, "said component based interface objects is ActiveX". This is admitted prior art, see application specification page 3, lines 3-4.

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Claims 3-4 and 15-16 recite, "ActiveX includes properties are mapped to session configuration". This is admitted prior art, see application specification page 3, lines 3-4.

Claims 5 and 17 recite, "ActiveX methods and events are mapped to startup and teardown a connection to the PBX switch". Daniel teaches Decision block 709 checks a number of special situations where stable calls could be dropped or disconnected if the diagnostic portion of PROC 620 is executed, (see col.10, lines 4152).

Claims 6 and 18 recite that "substantially all CSTA and private data fields are supported". CSTA protocol is old and well-known as admitted in Daniel's specification.

Claims 7-8 and 19-20 recite, "invoke ID manager, and ID generation and timing is automatic and configurable". This is obvious.

Regarding claims 11 and 23, Daniel teaches statuses and errors are logged (this reads on the executing the diagnostic routines checking for fault conditions, see col.3, lines 23-28), for having those features logged automatically this will be obvious.

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Regarding claims 12 and 24, Daniel teaches that statuses and errors are viewable via ActiveX property pages (this reads on block 211 in Fig.2 and col.6, lines 52-58).

Response to Arguments

4. Applicant's arguments have been fully considered but they are not persuasive.

Regarding applicant's argument, which states that "Daniel is directed to an expert system for maintaining remote computer systems" this differs from the claimed invention that is directed to CSTA connected to a local PBX" Applicant's argument regarding "local connection of CSTA to a PBX" can not be found in the claims . Therefore, it seems that applicant is reading limitations into the claims.

Also, for applicant's argument that the combination of Daniel and CSTA is not properly motivated, it is further noticed that applicant is presenting individual arguments regarding Daniel's reference without looking at the combination of the rejection as a whole.

The motivation to use an old and available protocol such as CSTA is obvious. Instead of creating and testing a new protocol, simply use an old, existing and tested protocol, which is convenient and economical.

It is further noted that the claimed CSTA protocol appears only in the preamble of claims 1 and 13 and carries no patentable weight. For example, claim 1 recites the "intended use" of the control interface.

In response to applicant's arguments, the recitation CSTA protocol has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

The recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

5. ***THIS ACTION IS MADE FINAL.*** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (703) 605-5145. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 3054700.

Examiner

Rasha Al-Aubaidi

06/21/2004

A handwritten signature in black ink, appearing to read "Ahmad Matar". The signature is fluid and cursive, with the first name "Ahmad" and last name "Matar" clearly distinguishable.

AHMAD MATAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600